Office - Supreme Court, U. S.
FILED
DEC 2 1954
HAROLD B. WILLEY, Clerk

IN THE

Supreme Court of the United States

OCTOBER TERM, 1954

NO. 349

MARY COOLEY ROY,
Petitioner,

v.

LEONARD C. ROY, SR.,
Respondent.

Petition for Rehearing on a Petition for a Writ of Certiorari To the Supreme Court of Florida

---

JOHN ALEXANDER,
JOSEPH SITNICK,
416 5th Street, N. W.,
Washington 1, D. C.,
Counsel for Petitioner.

Printed by Law Reporter Printing Co., 518 5th St., Washington, D. C.



INDEX

	PAGE
JURISDICTION	1
REASONS FOR THE PETITION FOR REHEARING	1
CONCLUSION	3

CITATIONS

Harding v. Harding, 198 U.S. 317	3
U. S. v. Munsingwear, Inc., 340 U.S. 39	2
Williams v. North Carolina, 317 U.S. 287	2

TEXTS

157 ALR 1400	2
163 ALR 368	2

IN THE

Supreme Court of the United States

OCTOBER TERM, 1954

NO. 349

MARY COOLEY ROY,
Petitioner,

v.

LEONARD C. ROY, SR.,
Respondent.

Petition for Rehearing on a Petition for a Writ of Certiorari To the Supreme Court of Florida

---

To the Honorable, the Chief Justice of the United States, and Associate Justices of the Supreme Court of the United States:

Comes now the petitioner and presents this petition for a rehearing on a petition for writ of certiorari in this case.

JURISDICTION

The petition for a writ of certiorari was filed herein and denied on November 8, 1954. This petition for rehearing is filed within twenty-five days from that date in accordance with Rule 58 of this Court.

REASONS FOR THE PETITION FOR REHEARING

In applying for this rehearing, petitioner reiterates each and every ground set forth in the original petition, and further suggests to the Court as follows:

I. There was another ground available to petitioner, although not previously presented:

The facts have heretofore been stated in the original petition and will not be repeated here. In the reply to that petition, respondent made much of the fact that the judgment in the District of Columbia was a default judgment and not obtained on personal service. The record in this case indicates that petitioner (plaintiff) was domiciled in the District of Columbia; that the respondent (defendant) was served personally with the process from the District of Columbia court in the State of Florida. This service was made conformably to the statute in the District of Columbia, and the respondent chose to ignore the action there pending.

It is respectfully submitted that the courts of one state are bound to give full faith and credit to the divorce decrees of another state or the District of Columbia rendered in favor of a plaintiff domiciled in the divorce forum against a non-resident defendant upon constructive service and without appearance. See *Williams* v. *North Carolina* (1942), 317 U.S. 287, 87 L. Ed. 279; 157 ALR 1400, 163 ALR 368.

It is again respectfully urged that a right, question, or fact distinctly put in issue and directly determined by a court of competent jurisdiction, as a ground of recovery, cannot be disputed in a subsequent suit between the same parties or their privies; and even if the second suit is for a different cause of action, the right, question, or fact once so determined must, as between the same parties or their privies, be taken as conclusively established so long as the judgment in the first suit remains unmodified. *U. S.* v. *Munsingwear, Inc.*, 340 U. S. 39, 95 L. Ed. 367.

As appears in the original petition herein, the petitioner wife, after being married to the respondent for more than thirty years, and after receiving an adjudication that she was without fault in the separation, is cut off from any relief by way of alimony by a subsequent decree of the

Florida Court based on the latter court's finding on the question of fault which was to the contrary to that found by the first court. As urged in the original petition, this action on the part of the Florida Court contravened Article IV of the Constitution and this Court's decision in *Harding* v. *Harding,* 198 U. S. 317.

CONCLUSION

For the reasons already argued in her original petition, and for further reasons contained herein, it is respectfully urged that a rehearing be granted; that upon further consideration, the order of November 8, 1954, denying the petition for certiorari be revoked and that a writ of certiorari issue.

CERTIFICATE

We hereby certify that the foregoing petition for rehearing is presented in good faith and not for delay.

Respectfully submitted,

JOHN ALEXANDER,

JOSEPH SITNICK,
416 5th Street, N. W.,
Washington 1, D. C.,
Counsel for Petitioner.